

**UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF IOWA**

IN RE:

SECOND PROGRESSION LLC,

DEBTOR.

)  
) CHAPTER 11 BANKRUPTCY  
)  
) CASE NO. 19-01253  
)  
) **MOTION FOR EXCUSAL WITH**  
) **COMPLIANCE BY NAI OPTIMUM**  
) **N/K/A CUSHMAN & WAKEFIELD WITH**  
) **11 U.S.C. SECTION 543(a)(b)**  
)  
)  
)  
)

COMES NOW NAI Optimum n/k/a Cushman & Wakefield, through counsel, and respectfully states as follows, to-wit:

1. NAI Optimum was appointed as a Receiver in a foreclosure case pending in the Iowa District Court in and for Linn County, Case No. EQCV088053, on June 20, 2017.
2. NAI in its capacity as Receiver has managed since its appointment the Town Centre buildings and a separate building owned by the Debtor, Second Progression, LLC located at the intersection of 3<sup>rd</sup> Avenue and 6<sup>th</sup> Street.
3. NAI, as the Receiver, has filed monthly reports detailing its activities with regard to the collection of rents and included with each accounting a check register reflecting all debits and credits to the account for the property owned by the Debtor.
4. 11 U.S.C. Section 543 requires the turnover of property "...accept such action as is necessary to preserve such property." 11 U.S.C. Section 543(c) provides that the Court, after notice and a hearing, shall protect all entities to which a custodian has become obligated with respect to such property or proceeds, product, offering, **rents** or profits of such property;

(emphasis added).

5. NAI Optimum n/k/a Cushman & Wakefield requests after notice and opportunity for hearing that the Bankruptcy Court enter such orders as are necessary to direct the activities of the Receiver in the context of using the rents collected from the building owned by the Debtor to pay bills and expenses associated with the property.

6. This Court has jurisdiction over this matter pursuant to 11 U.S.C. §105, §362, §543, §1301, 28 U.S.C. §157, §1334, the 1984 Bankruptcy Amendment and Federal Judgeship Act and the 1986 Bankruptcy Amendment and Federal Judgment Act, the 1986 Bankruptcy Judge's U.S. Trustee and Family/Farmer Bankruptcy Act, the Bankruptcy Judgeship Act of 2005 and The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 to the extent applicable to this case. This Court also has jurisdiction by virtue of the Debtor's filing of a Chapter 11 bankruptcy Petition under Title 11 on or about September 11 or September 12, 2019.

WHEREFORE, the Receiver respectfully requests of the Court after notice and opportunity for hearing enter such orders as the Court deems appropriate in the premises with regard to the turnover obligations of the custodian found at 11 U.S.C. Section 543 and enter such orders as the Court deems just and proper under the premises.

Respectfully submitted,



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ATTORNEY FOR IOWA COMMERCIAL  
ADVISORS, LLC d/b/a CUSHMAN &  
WAKEFIELD IOWA COMMERCIAL ADVISORS  
f/k/a RRC DES MOINES, LLC d/b/a NAI  
OPTIMUM

**CERTIFICATE OF SERVICE**

I hereby certify that on September 16, 2019, I electronically filed the foregoing document with the Clerk of Court using the ECF system, which will send notification of such filing to those registered to receive ECF notifications and being sent out via U.S. Mail to:

Second Progression, LLC  
600 3<sup>rd</sup> St.  
201 3<sup>rd</sup> Ave.  
Cedar Rapids, IA 52401  
*Debtor*

I certify under penalty of perjury that the foregoing is true and correct.

Executed on 9-16-19 Yliene Cihra  
(Date) (Signature)